

**EXHIBIT 11**

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**Via Email**

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November 8, 2023

**Re: *United States, et al. v. Google LLC*, No. 1:23-cv-00108-LMB-JFA (E.D. Va.)**

Dear Julia:

I write further to our agreement to provide written responses in lieu of testimony in connection with Topics 25 and 26 (as narrowed) of Plaintiffs' 30(b)(6) Deposition Notice to Google LLC ("Google") dated August 9, 2023. Google reserves the right to supplement these responses as necessary.

**Topic 25**

Google agreed to provide (a) its Chat retention policies for the period from January 1, 2016 to the present (or, if no retention policy specific to Chat was in effect during parts of that period, its general document retention policy during those parts of that period); (b) a chart indicating when a litigation hold for the Investigation or Litigation was issued to each custodian; and (c) a written response on Topic 25(c), narrowed as follows: "whether, when, and in what circumstances Google suspended its 24-hour auto-delete policy for chat messages for chat messages related to this Investigation or Litigation."

With respect to subpart (a), **Appendix A** to this letter contains a chart identifying by Bates number Google's retention policies applicable to Google Chat for the period from January 1, 2016 to the present.

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With respect to subpart (b), **Appendix B** to this letter contains the responsive information.

With respect to subpart (c), the retention period for Google Chat depends on the history setting of a particular message. *See Appendix A.* Further, Google implemented a process on February 8, 2023, for custodians on legal hold in this matter, whereby all Google Chats, regardless of the subject matter of the discussion, were set to “history on” moving forward and automatically preserved for so long as the legal hold is in place.

### **Topic 26**

Pursuant to the parties’ agreement on Topic 26, and the court’s subsequent ruling, ECF No. 376, Google has agreed to provide a written response describing, based on a reasonable inquiry: (a) for each of the Covered Employees (as defined below): (i) whether the employee used Chat to discuss matters relevant to this case; and (ii) the employee’s Chat history setting at times when the employee discussed matters relevant to this case; and (b) any non-privileged direction or statements that Google provided to its employees about conducting chats with “history off.”

For purposes of Topic 26, “Covered Employees” means the 35 individuals whom Plaintiffs identified in their September 11, 2023 letter and are listed in **Appendix C**. Although defined as “Covered Employees,” Plaintiffs’ list comprises 26 current employees and 9 former employees.

Google has contacted each of the Covered Employees, of which 33 provided responsive information.<sup>1</sup> This letter reports information Google collected from the 33 Covered Employees.

#### **1. Topic 26(a)(i): Case-Relevant Google Chat Usage**

Out of the 33 Covered Employees who provided responsive information, 17 reported that it was not their regular practice to use Chat for substantive communications related to ad tech, and 16 reported sometimes using Chat for substantive communications related to ad tech between January 2014 and the present.<sup>2</sup>

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<sup>1</sup> Google made a reasonable inquiry and endeavored to obtain responsive information from all 35 Covered Employees. One former employee, through his counsel, declined to provide responsive information. Google is still working to obtain a response from one other Covered Employee and will provide a supplement to this letter as necessary.

<sup>2</sup> The Covered Employees that reported sometimes using Chat for substantive communications regarding ad tech are Jonathan Bellack, [REDACTED]

Scott Spencer, [REDACTED]

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Nine of the 16 Covered Employees recalled sometimes using Chat for substantive communications relating to ad tech after receiving a legal hold notice relating to this matter.<sup>3</sup>

2. Topic 26(a)(ii): Case-Relevant Chat History Setting

Of the nine Covered Employees who recalled having used Chat for substantive communications relating to ad tech after receiving a legal hold relating to this matter, one Covered Employee<sup>4</sup> reported that he regularly toggled the Chat history setting to “history on” when discussing matters related to a legal hold.

3. Topic 26(b): Non-Privileged Chat History Setting Direction or Statements

Topic 26(b) (as narrowed) seeks “any non-privileged direction or statements that Google provided to its employees about conducting chats with ‘history off.’” Google has made a good faith attempt, following a reasonable inquiry, to ascertain “direction or statements” about communicating via Chat with history off and identifies the following: Google’s retention policies (*see Appendix A*) provide information on how long Chat is retained, whether a message is sent with history on or history off. In a communications training previously provided to Google employees, a module regarding whether to send an email when angry or tired contained a multiple choice question; one (incorrect) answer was: “Don’t send the email. Chat ‘off the record’ via Hangouts instead.”

Sincerely,



Eric Mahr

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<sup>3</sup> The other seven Covered Employees had transitioned out of positions involving work on Google’s ad tech business and into positions in Alphabet, Inc. or Google business segments not involving ad tech before they received legal hold notices relevant to this case. These seven Covered Employees include: Jonathan Bellack (on legal hold October 4, 2019; transitioned from Director of Product Management, Publisher Ad Platforms at Google to Director of Product at Jigsaw (another subsidiary of Alphabet, Inc.) in January 2019), [REDACTED] on legal hold January 22, 2021; transitioned from [REDACTED] in January 2019, [REDACTED] on legal hold October 4, 2019; [REDACTED] on legal hold January 22, 2021; [REDACTED] (on legal hold January 22, 2021); [REDACTED] (on legal hold January 22, 2021); [REDACTED] and [REDACTED] (on legal hold January 22, 2021); [REDACTED]

hold January 22, 2021; [REDACTED] on legal hold January 22, 2021; [REDACTED] (on legal hold January 22, 2021); [REDACTED]

hold January 22, 2021; [REDACTED] (on legal hold January 22, 2021); [REDACTED] (on legal hold January 22, 2021); [REDACTED]

hold January 22, 2021; [REDACTED] and [REDACTED] (on legal hold January 22, 2021); [REDACTED]

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**APPENDIX A**

**Retention policies applicable to Google Chat (January 1, 2016 to the present)**

Policy	Time Period	Beginning Bates
Gmail Retention Policy	August 21, 2015 - February 25, 2021	GOOG-AT-MDL-009709510
Google Chat Retention Policy	November 18, 2020 - February 25, 2021	GOOG-AT-MDL-009709520
Google Chat Retention Policy	February 26, 2021 - September 30, 2021	GOOG-AT-MDL-009709508
Google Chat Retention Policy	October 1, 2021 - December 7, 2021	GOOG-AT-MDL-009709522
Google Chat Retention Policy	December 8, 2021 - May 16, 2023	GOOG-AT-MDL-009709506
Google Chat Retention Policy	May 17, 2023 - Present (Current Policy)	GOOG-AT-MDL-009709518

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**APPENDIX B**

Custodian Name	Date Hold Notice Issued <sup>s</sup>
	Feb 3, 2021
	June 2, 2020
	Feb 3, 2021
	May 25, 2023
	Feb 3, 2021
	Jan 22, 2021
	Dec 5, 2019
	May 25, 2023
	Jan 22, 2021
	Jan 22, 2021
Jonathan Bellack	Oct 4, 2019
	Oct 4, 2019
	Sept 20, 2022
	Jan 22, 2021
	Jan 22, 2021
	Oct 4, 2019
	Jan 22, 2021
	Feb 3, 2021
	May 25, 2023
	Jan 22, 2021
	Jan 22, 2021
	Feb 3, 2021
	Jan 22, 2021

<sup>s</sup> A legal hold was implemented for some custodians after they left Google. For those custodians, we have provided the date that the hold was implemented.

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
	Feb 3, 2021
	Jan 22, 2021
	Jan 22, 2021
	June 22, 2020
	June 12, 2023
	Jan 22, 2021
	May 25, 2023
	Oct 4, 2019
	Feb 3, 2021
	Sept 20, 2022
	Jan 22, 2021
	May 25, 2023
	Jan 22, 2021
	Jan 22, 2021
	May 25, 2023
	Jan 22, 2021
	Jan 22, 2021
	Feb 3, 2021
	Jan 22, 2021
	Jan 22, 2021
	June 22, 2020
	Jul 26, 2023
	Apr 3, 2023
	Feb 3, 2021
	Jan 22, 2021
	Jan 22, 2021

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
	Sept 26, 2023
	Jan 22, 2021
	Apr 3, 2023
	Oct 4, 2019
	Apr 3, 2023
	Aug 6, 2020
	Jan 29, 2021
	Oct 4, 2019
	Jan 22, 2021
	June 12, 2023
	Jan 22, 2021
	Jan 22, 2021
	Feb 21, 2020
	Oct 4, 2019
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	Feb 3, 2021
	May 25, 2023
	Feb. 4, 2020
	Oct 4, 2019
	Feb 10, 2021
	June 2, 2020
	Jan 22, 2021
	Sept 25, 2023
	Jan 22, 2021
	Jan 22, 2021

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	June 22, 2020
	Feb 23, 2023
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	Jul 26, 2023
	Jan 22, 2021
	Feb 3, 2021
	May 3, 2023
	Jan 22, 2021
Neal Mohan	Apr 27, 2023
	Feb 23, 2023
	Jan 22, 2021
	Feb 3, 2021
	Mar 8, 2021
	Jul 26, 2023
	Jan 22, 2021
	June 14, 2023
	June 12, 2023
	Jan 22, 2021
	Jul 26, 2023
	Jan 22, 2021
	Sept 20, 2022
	Jan 22, 2021

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
	Oct 16, 2023
	Jan 22, 2021
	Jan 22, 2021
Sundar Pichai	Oct 4, 2019
	Jan 22, 2021
	Feb 3, 2021
	Oct 4, 2019
	Apr 3, 2023
	Nov. 4, 2019
	Feb 3, 2021
	Jan 22, 2021
	May 23, 2023
	June 12, 2023
	May 25, 2023
	Jan 22, 2021
	Jan 22, 2021
	May 25, 2023
	Jan 22, 2021
	May 25, 2023
	Mar 8, 2021
	Jan 29, 2021
	Oct 4, 2019
	Oct 4, 2019
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	Feb 3, 2021

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
	Jan 22, 2021
	Mar 3, 2022
	May 23, 2023
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	June 12, 2023
Scott Spencer	Jan 22, 2021
	Apr 3, 2023
	Mar 8, 2021
	Oct 4, 2019
	Jan 22, 2021
	Jan 22, 2021
	Jan 22, 2021
	June 12, 2023
	Feb 23, 2021
	Jan 22, 2021
	June 14, 2023
	Feb 3, 2021
	Jan 22, 2021
	June 12, 2023
	June 12, 2023
	Jan 22, 2021
	Jan 22, 2021

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Custodian Name	Date Hold Notice Issued <sup>5</sup>
[REDACTED]	Mar 3, 2022
[REDACTED]	Jan 22, 2021
[REDACTED]	Jan 18, 2023
[REDACTED]	May 25, 2023
[REDACTED]	Jan 22, 2021
[REDACTED]	Feb 3, 2021
[REDACTED]	Jan 22, 2021
[REDACTED]	Jan 22, 2021
[REDACTED]	Jan 22, 2021
[REDACTED]	May 25, 2023
[REDACTED]	Jan 22, 2021
Susan Wojcicki	Oct 4, 2019
[REDACTED]	Oct 4, 2019
[REDACTED]	May 25, 2023

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**APPENDIX C**

On September 11, 2023, Plaintiffs identified the following 35 employees as "Covered Employees" for Google's written response to Topic 26 of Plaintiffs' 30(b)(6) Notice<sup>6</sup>:

1) Jonathan Bellack\*

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23)

24) Larry Page

25) Sundar Pichai

26)

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28)

29)

30)

31)

32) Scott Spencer\*

33)

34)

35) Susan Wojcicki

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<sup>6</sup> An asterisk (\*) denotes former Google employees as of September 11, 2023.